dence and when it concluded that no relief within the scope of the Complaint could be granted.

We request that certiorari be denied. The reasons for our request are not limited to the due process considerations herein which have been merged under the overall label of "mootness". There are substantial practical considerations in this case. We suggest that progress has been made. We suggest that this progress has been more than substantial and differs widely from the type of tokenism Petitioners seek to accomplish by being able to claim that they have successfully sued an Apprenticeship Program and Union. This type of result would not only impede forward progress but would cause regression as well. As lawyers—as persons who, at least attempt to be socially aware, we can embrace both logically and emotionally concepts which exceed even those of equality. Defendants in a lawsuit of the type involved herein—particularly when they have been improperly accused of discriminating and being prejudiced—are not in a position, either individually or with their union membership, to prefer one class of persons as against another. The rank and file union membership understands and accepts the absence of discrimination and the presence of equality of opportunity. And, our national policy does not go beyond that. To say now that because a lawsuit was filed involving a specific job and a specific contractor, that this lawsuit will be used to impose preference is something that the rank and file membership will not be able to understand. And, we suggest that their understanding and cooperation, while not necessary to enforce a judicial decree, is essential to continued progress being made in exposing more negroes to the opportunities available. The Petitioners here have stubbornly ignored this and have seized upon the broad decree of the district court (entered *nunc pro tunc*) to have an order entered against this Respondent for what appears to be the pure sake of having such order

entered. Moreover, the conclusion of the Solicitor General (pg. 8) that "the only avenue of relief now open to plaintiffs against the racial injustice they allege" is to have this Court overrule the Court of Appeals is not only an erroneous evaluation of existing law, but additionally, completely avoids the due process considerations as regards this Respondent. The Solicitor General (pg. 8) recites that the "theory of the complaint raises difficult constitutional questions . . .". The question presented now, however, while a serious constitutional one, is much more serious from another standpoint. In all of the civil rights cases presented to this Court, the constitutional questions revolved around a substantive evaluation of what might have been encompassed by the Fifth or Fourteenth Amendment to the Constitution. At no time was the question presented of whether or not the defendants had their day in court—of whether the question ultimately sought to be determined by this Court had been fully litigated below and was based upon an appropriate complaint and issues generated in the case. Here the constitutional question is the deprivation of the defendants' right to defend a case and this was the basis of the Court of Appeals' ruling that no relief within the scope of the complaint could now be granted.

We request that certiorari be denied.

Respectfully submitted,

BERNARD M. MAMET,
Suite 1326,
327 S. La Salle Street,
Chicago, Illinois 60604,
HArrison 7-7630,

Attorney for Respondent Local Union No. 1.

Chicago, Illinois,

January 29, 1965.

APPENDIX A

U. S. DEPARTMENT OF LABOR
Bureau of Apprenticeship and Training
Washington 25, D. C.

November 10, 196

Mr. James E. Eads, Chairman
Joint Apprenticeship Committee
International Association of
Bridge, Structural and Ornamental
Iron Workers for Local No. 1
2405 West North Avenue
Chicago, Illinois 60647

Dear Mr. Eads:

Your apprenticeship program has been reviewed an found to be in conformance with the "equal opportunit standards of CFR Title 29, Part 30, Nondiscrimination i Apprenticeship and Training, effective January 17, 1964."

We appreciate your cooperation with our State Supe visor, Mr. Joseph Sullivan, who made the field revie Your committee is to be congratulated for affording equa ity of opportunity for apprenticeship regardless of rac color, creed, religion or national origin.

Sincerely yours,

/s/ Hugh C. Murphy
Hugh C. Murphy
Administrator